

REMARKS

Claims 1-22 and 28-32 are all the claims presently pending in the application. Claim 22 has been amended to more particularly define the claimed invention. Claims 23-27 have been canceled.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-19 and 31-32 stand rejected under 35 U.S.C. § 101 as being allegedly directed to non-statutory subject matter.

Claims 1-32 stand rejected under 35 U.S.C. § 102(a) as being allegedly anticipated by Robillard et al. ("A study of Program Evolution Involving Scattered Concerns") (hereinafter "Robillard") Claims 6, 9-14, 17, 20, 21 and 24 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Robillard in view of Kiss et al. (U. S. Pat. No. 6,484,155).

These rejections are respectfully traversed in view of the following discussion.

I. THE CLAIMED INVENTION

An exemplary aspect of the claimed invention (e.g., as defined by claim 1) is directed to system for identifying concerns including a specifying device for specifying at least one initial concern in a software system, and an identifying device for identifying at least one related concern in the software system having a relationship with the at least one initial concern (Application at page 8, line 18-page 9, line 11). This may allow a user to "pull apart" a software system by extracting related concerns.

Another exemplary embodiment of the claimed invention (e.g., as recited, for example, in claim 20) is directed to a system for identifying concerns, including a specifying device for specifying a query against artifacts related to software development, including software, generated code, or models and information about software, means of displaying the results of the query, and means of updating the query when at least one of new artifacts are

introduced, artifacts are deleted, and artifacts are changed (Application at page 18, lines 6-9; Figure 5B). This may allow the system to be self-refining as the software changes.

II. THE 35 USC 101 REJECTION

The Examiner alleges that claims 1-19 and 31-32 are not directed to patentable subject matter. Applicant submits, however, that the claims are clearly directed to patentable subject matter.

Applicant respectfully submits that the Examiner's allegations are **complete nonsense**.

Indeed, Applicant notes that **it is well-settled that if a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product**. See, e.g., *Lowry*, 32 F.3d at 1583, 32 USPQ2d at 1034-35; *Warmerdam*, 33 F.3d at 1361-62, 31 USPQ2d at 1760. (Note that a *machine* may be defined as "a concrete thing, consisting of parts or of certain devices and combinations of devices." *Burr v. Duryee*, 68 U.S. (1 Wall.) 531, 570 (1863) (MPEP §2106)).

Applicant would point out that claims 1-19 and 31-32 are directed to a "system for identifying concerns " including a "specifying device" and an "identifying device". An exemplary aspect of the claimed system is illustrated in Figure 2.

The Examiner alleges that claim 1 "may comprise only software components". However, nowhere does the Application limit the claimed invention to only a software implementation (e.g., see Figure 2).

In view of the foregoing, the Examiner is respectfully requested to withdraw this rejection.

III. THE ALLEGED PRIOR ART REFERENCES

A. Robillard

The Examiner alleges that Robillard teaches the claimed invention of claims 1-32. Applicant would submit, however, that Robillard does not teach or suggest each and every element of the claimed invention.

In particular, nowhere does Robillard teach or suggest *"an identifying device for identifying at least one related concern in said software system having a relationship with said at least one initial concern"*, as recited in claim 1 (Application at page 8, line 18-page 9, line 11). As noted above, this may allow a user to "pull apart" a software system by extracting related concerns.

Clearly, these features are not taught or suggested by Robillard.

Indeed, Robillard simply discloses a study to investigate how developers discover and manage scattered concerns during a software evolution task, and the role that structural queries play during the investigation (Robillard at Abstract). The Examiner attempts to rely on page 4, Figure 1 in Robillard to support his position that Robillard teaches the identifying device of the claimed invention. This is completely unreasonable.

Indeed, Figure 1 in Robillard simply teaches the FEAT Eclipse Plugin. The top right window in Figure 1 simply "lists the relations between the selected element in the middle window and any other element in the concern". That is, nowhere does Figure 1 teach or suggest an identifying device for identifying at least one related concern in the software system having a relationship with the at least one initial concern.

Therefore, Applicant would submit that Robillard clearly does not teach or suggest each and every element of the claimed invention. Therefore, the Examiner is respectfully requested to withdraw this rejection.

III. FORMAL MATTERS AND CONCLUSION

Applicant notes that the drawings have been amended to address the Examiner's objection thereto.

In view of the foregoing, Applicant submits that claims 1-32, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

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The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0510.

Respectfully Submitted,

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